

## EXCISE AND TAXATION DEPARTMENT

The 26th/29th July, 1974

No. 1455-ET(I)-74/24847.—The Governor of Haryana is pleased to retire Shri Jai Singh Rao, D.E.T.O., Jind, from Government Service on the 11th June, 1974 (A.N.) on his attaining the age of 55 years.

P. P. CAPRIHAN, Secy.

## LABOUR DEPARTMENT

The 25th July, 1974

No. 6533-4Lab-74/24548.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. VIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Municipal Committee, Ambala City.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 161 of 1972

between

SHRI MOHAN SINGH AND THE MANAGEMENT OF MUNICIPAL COMMITTEE,  
AMBALA CITY

Present :

Shri Lakhpat Rai for the workman.

Shri D. S. Rekhi for the management.

## AWARD

Shri Mohan Singh a workman concerned was in the service of Municipal Committee, Ambala City as a Sanitary Driver. He was retired from service on 25th January, 1971 on attaining the age of superannuation i. e. 58 years. Feeling aggrieved, he raised the present dispute contending that his retirement from service before he reached the age of 60 years was illegal and unjustified and he was entitled to be reinstatement. The management did not accede to his above demand.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this court, —vide order No. ID/Amb/63-A-72/15329-33, dated 20th April, 1972, with the following term of reference:—

“Whether the termination of service of Shri Mohan Singh was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties and they put in their pleadings giving rise to the following three issues in the case:—

- (1.) Whether the reference is against the provisions of section 10 (i) of the Industrial Disputes Act because the workman has been retired within the meaning of section 2(oo) (b) ?
- (2.) Whether the workman has been retired on his attaining the age of 58 years and in accordance with rule 13 of the general rules made under section 240 of the Punjab Municipal Act, 1911 and the provisions of Civil Service Rules ?
- (3.) If the above issues are found in favour of the workman whether the termination of his service was justified and in order? If not, to what relief is he entitled?

Shri Mohan Singh has made his own statement without placing reliance upon any other evidence, oral or documentary. On behalf of the management Shri Hari Chand, Superintendent has come into the witness-box as M.W. I and deposed that the employees of the Municipal Committee are governed by the Civil Service Rules and that Shri Mohan Singh was a class IV employee. In cross-examination he has further admitted that Shri Sarup Singh Driver was retired at the age of 60.

The case has been argued on both sides and I have given a careful consideration to the matter in issue. According to the statement of M.W. I Shri Hari Chand Superintendent of the respondent Committee the employees of the Committee are governed by the Civil Service Rules in the matter of their appointment, retirement etc. It is a common ground between the parties that Shri Mohan Singh the present workman was retired from service on his attaining the age of 58 years. His contention is that he was a class IV employee and as such he was entitled to remain in service upto the age of 60 years. M.W. I has also stated that he belonged to the category of class IV employee although it has been argued by the learned representative of the respondent Committee that this statement was made by the witness by inadvertence as, in fact, the present workman was a class III employee. His contention does not appear to be without force. The provisions of the Civil Service Rules by which the employees of the respondent Committee are governed are clear on the point. According to these provisions all Drivers are placed in the category of class III employees. The learned representative of the workman concerned has not been able to show me anything to the contrary. The provisions of the Civil Service Rules are further clear on the point of the age of retirement of such employees which is 58 years. The age of retirement of the class IV employees is no doubt 60 years. But that is clearly not the case here. Shri Mohan Singh concerned workman being a Driver in the Sanitary Department of the respondent Committee was a class III employee and as such he was rightly retired from service on his attaining the age of superannuation of 58 years on 25th January. His contention that he was entitled to continue in service upto the age of 60 years is not well founded and warranted by the provisions of the law as stated above.

There is another aspect of the case which deserves consideration here. It has come in his statement that he had made an application to the respondent Committee for retention in service upto the age of 60 years. No such application or copy thereof has been brought on record. This fact which has come in his statement rather cuts at the root of his own case. If he was entitled to continue in service upto the age of 60 years as of right or in other words, if the age of superannuation in his case was 60 years being a class IV employee according to his contention where was the necessity for him to make an application for being retained in service till the age of 60 years. If his contention was true he would have continued in service till the age of 60 years as a matter of routine.

In the circumstances, the demand raised by the workman is misconceived. The respondent Committee was perfectly justified in retiring him from service on his attaining the age of superannuation i.e. 58 years on 25th January 1971 and as such no industrial dispute existed within the meaning of the law calling for adjudication by this court. The respondent Committee did not terminate his services by way of punishment or otherwise. His services in fact stood automatically terminated under the rules of his attaining the age of 58 years.

In view of my above discussions and for the reasons aforesaid, the issues involved in the case are decided against the workman and it is held that he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly but without any order as to costs.

Dated the 10th July, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1763, dated the 15th July, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 6534-Lab-74/24550.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Jakh Industries, Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 130 of 1971

*between*

SHRI SHIV KUMAR AND THE MANAGEMENT OF M/S JAKH INDUSTRIES, GURGAON

*Present :*

Shri C. B. Kaushik, for the workman.

Shri D. C. Chadha, for the management.

## AWARD

Shri Shiv Kumar workman concerned was in the service of M/s Jakh Industries, Gurgaon. His services were terminated by the management with effect from 1st November, 1970. Feeling aggrieved, he approached the management with the request that he should be taken back on duty as the order of the termination of his services was illegal and wrongful. The management, however, did not accede to his demand. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 by order No. 17/GG/90-B-71/23095-13100, dated the 27th July, 1971, with the following term of reference:—

Whether the termination of services of Shri Shiv Kumar was justified and in order? If not, to what relief is he entitled?

The parties put in their pleadings giving rise to the following issues:—

- (1) Whether the workman absented himself from duty without any intimation to the management with effect from 1st November, 1970?
- (2) If the above issue is found in favour of the workman whether the termination of services of Shri Shiv Kumar was justified and in order? If not, to what relief is he entitled?

The management has led some evidence. It is, however, not necessary to go into the merits of the case and the issues involved as the parties have arrived at an amicable settlement. Shri Shiv Kumar concerned workman has received payment of Rs. 900 from the management, in full and final settlement of his entire claims including the right of reinstatement or re-employment,—*vide* receipt Exhibit M. 1 and a joint request for disposal of the case in accordance with the above settlement has been made supported with the affidavit of Shri Shiv Kumar. His authorised representative Shri C. B. Kaushik has no instructions from him to refute the above plea of settlement raised by the management. Statements have been recorded.

In view of the above, a no dispute award is given in terms of the above settlement arrived at between the parties. In the circumstances, there shall be no order as to costs.

Dated the 9th July, 1974.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1762, dated the 15th July, 1974

Forwarded, in dispute, to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under sub-section (4) of section 33-C of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 6535-4Lab-74/24552.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Panipat Co-operative Distillery, Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 8 of 1973

between

SHRI JAI BHAGWAN AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE  
DISTILLERY, PANIPAT

Present :

Shri Onkar Parshad, for the workman.

Shri Surinder Kaushal, for the management.

#### AWARD

Shri Jai Bhagwan concerned workman was in the service of M/s Panipat Co-operative Distillery, Panipat. His services were allegedly terminated by the management on 28th October, 1972 without any notice or charge-sheet. He raised a demand for reinstatement alleging that the termination of his services was wrongful and he was entitled to be reinstated. The management did not take him back on duty. This gave rise to an industrial dispute. He gave the demand notice dated 3rd November, 1972 whereupon conciliation proceedings were started which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the dispute was referred for adjudication to this court,—vide order No. ID/KNL/169-B-73/10096-10100, dated 12th March, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 19 of the Industrial Disputes Act, 1947, with the following term of reference:—

"Whether the termination of services of Shri Jai Bhagwan was justified and in order? If not, to what relief is he entitled?"

Usual notices were given to the parties. The workman did not file any statement of claim apart from the demand notice leading to the present reference. In the written statement filed on behalf of the management his claim was contested on the ground that he was only a casual worker and had never been appointed against any permanent vacancy. It was further contended that the demand was properly raised.

The following issues arose for determination in the case :—

- (1) Whether the demand was not properly raised by the workman concerned and, therefore, the reference is not valid?
- (2) Whether the termination of services of Shri Jai Bhagwan was justified and in order? If not, to what relief is he entitled?

The management has examined one witness Shri Chander Parkash, Time Keeper who has deposed on solemn affirmation that this workman had joined duty on casual basis on 28th October, 1972 and was paid off on 30th October, 1972 and that he had never been appointed as a regular worker against any permanent job and no appointment letter was given to him.

The workman concerned has led no evidence, oral or documentary, in spite of getting several adjournments. He has not come forward even to make his own statement on oath to support his claim by refuting the above plea raised on behalf of the management.

I have heard the learned representatives of the parties and given a careful consideration to the facts on record.

Nothing worth consideration has been urged on behalf of the management with regard to issue No. 1. The demand notice to challenge the validity of the termination of his services was given by Shri Jai Bhagwan concerned workman himself although he has given his address care of Shri Karan Singh, Secretary, Sugar Mills Mazdoor Union, Panipat. He was competent to do so under section 2-A of the Industrial Disputes Act, 1947 and even if it be assumed for the sake of argument that the other workmen in the distillery had not espoused his cause, it would be an industrial dispute within the meaning of the law and as such it cannot be held that the dispute has not been properly raised. Issue No. 1 is accordingly decided against the management.

Issue No. 2.—With regard to issue No. 2 on merits the workman has made out no case for the grant of any relief by way of reinstatement or payment of back dues. In the written statement, the management had taken the specific plea that he was only a casual worker and his services came to an end

on 30th October, 1972 when no longer required and he was paid off on that day. No replication was filed by him to refute the above plea of the management. Shri Chander Parkash Time-keeper official concerned of the management has sworn testimony to the contention raised in the written statement that Shri Jai Bhagwan was only a casual worker appointed from time to time according to the requirements of the work and he was never made a regular worker against any permanent job. In spite of getting several adjournments the workman has produced no evidence in refutation so much so that he has not even come forward himself to make his own statement to refute the above plea of the management. In the circumstances, I do not find any reasonable ground to disbelieve the case set up by the management. Shri Jai Bhagwan being only a casual worker had no lien on any job to justify his claim for reinstatement. His services were required by the management till 30th October, 1972 when he was paid off. He had no right to continue in service thereafter.

For the reasons aforesaid, issue No. 2 is decided in favour of the management and it is held that the termination of the services of Shri Jai Bhagwan workman concerned was justified and in order and as such he is not entitled to any relief by way of reinstatement or payment of dues. The award is made accordingly but without any order as to costs.

The 8th July, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1761, dated 15th July, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 6547-4 Lib-74/24554.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Shri Chand Steel Rolling Mills, Bahadurgarh.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 26 of 1974

between

SHRI TEJA SINGH AND THE MANAGEMENT OF M/S SHRI CHAND STEEL ROLLING  
MILLS BAHADURGARH

Present.—

Shri Rajinder Singh, for the workman.

Shri Krishan Kumar, for the management.

#### AWARD

Shri Teja Singh was in the service of M/s Shri Chand Steel Rolling Mills, Bahadurgarh. The following dispute between him and the management was referred for adjudication to this court by order No. ID/RK/265-A-74/9352-56, dated the 9th April, 1974 of the Governor of Haryana, in exercise of the power conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Teja Singh was justified and in order? If not, to what relief is he entitled?”

Usual notices were given to the parties who have arrived at a settlement. Their statements have been recorded. The management has paid Rs. 1400 today before the court to the workman through his authorised representative Shri Rajinder Singh, in full and final settlement of his entire claims against the management and he has given up his right of reinstatement or re-employment.

In view of the above, no further proceedings are called for in the case and a no dispute award is given in terms of the above settlement. There shall be no order as to costs.

Dated the 8th July, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1760, dated the 15th July, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 61074-4Lab-74/24556 —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Rohtak in respect of the dispute between the workman and the management of Municipal Committee, Yamunanagar.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 12 of 1973

*between*

SHRI DAYA RAM AND THE MANAGEMENT OF MUNICIPAL COMMITTEE,  
YAMUNANAGAR

*Present:*

Shri Subhash Chander and Boota Ram for the management.  
Nemo for the workman.

#### AWARD

Shri Daya Ram a Road Gang Beldar belonging to the work-charged establishment of the Municipal Committee, Yamuna Nagar had raised a dispute which was referred for adjudication to this court by the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, vide order No. 1D/Amb/122-C-73/10118-22, dated 12th March, 1973 with the following term of reference:

"Whether the termination of services of Shri Daya Ram was justified and in order? If not, to what relief is he entitled?"

Usual notices were given to the parties who had arrived at an amicable settlement. The workman concerned has been re-employed in the work-charged establishment on the same terms and conditions and he has foregone his claim for back dues. There is now no dispute left between the parties and an application to this effect Ex. M. 1 has been addressed to this court by Shri T.C. Wahi authorised representative of the workman who had given the demand notice leading to the present reference. A no dispute award is, therefore, given but without any order as to costs.

Dated the 24th June, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1571, dated the 2nd July, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.